IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO.385 OF 2004
IN
WRIT PETITION NO.224 OF 1994

CTR Manufacturing Industries Ltd.,
& Anr. ..Appellants

Versus

D.M.Bhingare C/o.CTR Trade Union ..Respondents

Mr.K.S.Bapat for the appellants.

Ms.Neeta Karnik for Respondent No.1.

Coram : R.M.LODHA &
R.S.MOHITE,JJ

Date : 7.4.2005.

PC

. Heard the learned Counsel for the appellants and the learned Counsel for Respondent No.1.

2. On behalf of the present appellants, in opposition to the Complaint filed by the present respondent, its Works Manager Surendra Balkrishna Desai was examined. In his cross-examination he admitted that no production norms were fixed in the settlement of 1984 since job with regard to drilling machine and bearing machine was new. The witness also admitted that the Complainant-respondent remained present at the gate during the months of

June, July and August-1991 but since he refused to give undertaking as asked for by the employer, he was not allowed to enter the factory premises.

3. It is not in dispute that the jobs allotted to the Complainant were on the drilling machine and shearing machine. The Industrial Court by way of the order passed on review application permitted the employer to take an undertaking from the employee to the effect that the Complainant will carry out the work allotted to him as was done by him earlier. However, the employer handed in proforma of the undertaking to the Complainant which read thus :-

> I, Mr.D.M.Bhingare C1, No.0269 working in the Permaquip Division of CTR/Poona agree to follow verbal instructions of the Supervisor regarding work allotted to me, and I shall carry out the said work. Further, I agree to abide by clause 1 on page 7 on Agreement dated 13.4.1984, binding on me. I will give output as given earlier and by other daily rated workmen. Further, to avoid any ambiguity regarding my output, I agree to sign daily production report (DIR) maintained by the Supervisor certifying my output, prior to the end of my shift."

4. Having considered the matter, we find that the view of the learned single Judge that by insisting upon an undertaking in the manner aforenoted, the employer indulged in unfair labour practice is not erroneous. This is not a case where the employee

was engaged in violence or strike, gherao, go-slow etc. and that necessitated an undertaking from the employee. The learned single Judge was right in observing that by directing the employee to give an undertaking in the manner suggested by the employer, the employer sought to incorporate a term in the contract which was not permissible.

5. All in all the consideration of the matter by the learned single Judge does not suffer from any legal infirmity warranting interference bu us.

6. Letters Patent Appeal is dismissed in limine.

(R.M.LODHA,J)

(R.S.MOHITE,J)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.393 OF 2004
IN
LETTERS PATENT APPEAL NO.385 OF 2004

CTR Manufacturing Industries Ltd.,
& Anr. ..Applicants

Versus

D.M.Bhingare C/o.CTR Trade Union ..Respondents

Mr.K.S.Bapat for the applicants.

Ms.Neeta Karnik for Respondent No.1.

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. In view of dismissal of Letters Patent Appeal, Civil application does not survive and is dismissed accordingly.

(R.M.LODHA,J)

(R.S.MOHITE,J)